IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 8530 of 2000

Between:

1 M.Vijayanand, s/o Tirupathaiah
F.P.Shop.No.115, Circle-I, Saidabd, Colony, Hyderabad
2 A.Sanjeeva Rao, s/o Das
F.P.Shop.No.192, Circle-I, P&T colony, Dilsukhnagar, Hyderabad
3 B.Das, s/o Rajaiah
F.P.Shop.No.189, Circle-I, Musarambagh, Hyderabad
4 T.Srilatha W/o Srinivas
F.P.Shop.No.132, Circle-I, Municipal Colony, Malakpet,. Hyderabad
5 K.Chittaramma W/o Narasimha
F.P.Shop No. 143, Circle-I P &T colony, Goutam Nagar, Hyderabad
6 M.Surya Prakasham, s/o Veeraiah
F.P.Shop No. 159, Circle-I Madannapet, Hyderabad
7 Premkumar s/o Dayanand
F.P.Shop No. 122, Circle-I Usmanpura, Hyderabad
8 M.A.Sattar, s/o M.A. Gafoor,
F.P.Shop No. 191, Circle-I, SBH colony, Saidabad, Hyderabad
9 Yuvraj Singh, s/o Pratap Singh
F.P.Shop No. 148, Circle-I Santosh Nagar, Hyderabad

..... PETITIONER(S)

AND

1 Chief Rationing Officer Civil Supplies, C,.R.O. complex
S.P.Road, Secunderabad

2 District Supply Officer (City)
CRO Complex, S.P.Road , Secunderabad

3 Asst. Supply officer,
Circle-I Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of

Mandamus declaring the action of the 2nd respondent in treating the petitioners as temporary F.P.Shop Dealers though they were appointed on regular basis in accordance with the procedure specified in A.P.Scheduled commodities (Regulation of Distribution of Card System) order, 1973 is irrational, arbitrary and unconstitutional and consequently set aside the notification No. B1/3391/2000 dt. 29/02/2000 issued by the 2nd respondent proposing to make fresh appointments.

For the Petitioners: MR.B.ADINARAYANA RAO, Advocate (Not Present)

For the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

None appears for the petitioners.

Heard the learned Government Pleader for Civil Supplies.

The petitioners claim to be appointed as fair price shop dealers for distribution of essential commodities to the cardholders filed the present writ petition with a prayer to declare the action of the second respondent in treating the petitioners as temporary fair price shop dealers though they were appointed on regular basis as arbitrary and illegal and consequential direction to set-aside the notification. It is stated that on issuance of notification by the first respondent inviting applications, the petitioners who were applied were selected and necessary authorization was issued in their favour and since then they are functioning as such. Originally, the son of the fifth petitioner was appointed as fair price shop dealer in respect of Shop No.143 and because of his medical infirmity, authorization was transferred in favour of the fifth petitioner on 2-6-1994. Similarly, the brother of the fourth petitioner was appointed as fair price shop dealer in respect of Shop No.132 and because of his untimely death, authorization was transferred in favour of the fourth petitioner. To the surprise of the petitioners, notification dt. 29-2-2000 was issued by the second respondent inviting applications for appointment of fair price shops dealers in respect of the shops, for which the petitioners were earlier appointed.

In response to the rule nisi, the District Supply Officer (City) Hyderabad filed a counter-affidavit stating that the Government in G.O.Ms.No. 120 Food & Agriculture (CS.II) Department dt. 27-2-1988 amended A.P. Scheduled Commodities (Regulation and Distribution of Card System) Order, 1973 (hereinafter called “the order, 1973”). As per the said amendment, the Chief Rationing Officer is the

Appointing Authority and Minister nominated by the Government was the Appellate Authority. Later on Government through G.O.Ms.No.300 Food & Agriculture (CS.II) Department dt. 5-5-1989 modified the authorities and in respect of twin cities of Hyderabad and Secunderabad, the Minister nominated by the Government was the appellate authority and further orders were issued in G.O.Ms.No.889 dt. 31-10-1989 making the Chief Minister was the Appellate Authority. Some of the dealers challenged G.O.Ms.Nos.300 dt. 5-5-1989 and 889 dt. 31-10-1989 in W.P.No.8671/1989 and batch, which was allowed on 6-12-1989 quashing the above GOs and ordered restoration of the position as it stood prior to G.O.Ms.No.120 dt. 27-2-1988. Keeping in view of the orders of the High Court, the Government issued G.O.Ms.No.19 Food & Agriculture (CS.II) Department dt. 8-1-1990 conferring powers of the appointment, appeal and revision in respect of fair price shop dealers with retrospective effect from 27-2-1988 on Assistant Supply Officer as Appointing Authority, the Chief Rationing Officer as Appellate Authority and the Commissioner of Civil Supplies as Revisionary Authority in respect of twin cities of Hyderabad and Secunderabad. In view of the same, all cases which were decided as per these orders on or after 27-2-1988 directed to be taken up for review in accordance with the provisions of the order, 1973 in the light of the orders passed by this court in WP No.8671/89 and batch dt. 6-12-1989. Dealers of the twin cities including the writ petitioners herein who are running the fair price shops on temporary basis challenged G.O.Ms.No.19 dt. 8-1-1990 in W.P.No.6407/90 and batch, which was dismissed by the Division Bench on 12-10-1990 upholding the GO and consequential notifications issued by the concerned Revenue Divisional Officers/Sub-Collectors inviting fresh applications for grant of authorization on regular basis. The SLPs filed by some of the fair price shop dealers were also dismissed by the Supreme Court on 6-5-1991.Due to misplacement of the file and due to change of officers, notification was not issued. After tracing the file notification was issued. The writ petition No.4455/90 filed by the petitioners 1,3,6,7,8 and 9, and writ petition No.4421/90 filed by petitioner No.2 were dismissed on 12-10-1990 along with WP No.6407/90 and batch. The brother of the petitioner No.4 and son of the petitioner No.5 were parties in WP No.4455/90.

Having regard to the facts and circumstances of the case, all appointments made by the appointing authority prior to the amendment were set at naught as per the amended provision. When once change of appointing authority through G.O.Ms.No.300 dt. 5-5-1989 and 889 dt. 31-10-1989 is set-aside and issuance of

G.O.Ms.No.19 dt. 8-1-1990 conferring powers of appointment with retrospective effect which was upheld by this court, the petitioners who were appointed during the interrugnum cannot have right to continue as such. Moreso, in view of upholding G.O.Ms.No.19 and all consequential notifications, the present writ petition is devoid of any merit and is accordingly dismissed. No costs

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A.GOPAL REDDY,J

Dt. 28-6-2004

kmr

ASST. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Chief Rationing Officer Civil Supplies, C,.R.O. complex
S.P.Road, Secunderabad.

2 District Supply officer (City)
CRO Complex, S.P.Road , Secunderabad.

3 Asst. Supply officer,
Circle-I Hyderabad.

4. 2 CCs to the Govt., Pleader for Civil Supplies, High Court Buildings, Hyderabad.

5. 2 CD copies.